

Book reviews

Sex Selection for Non-medical Reasons

Advisory report of the Standing Committee on Medical Ethics and Health Law of The Health Council of the Netherlands, the Hague, the Netherlands, 1995, 48 pages, Dfl 10.00 + postage.

Current techniques of sex selection take three forms. One is to use chorionic villus or amniocentesis to diagnose the gender of the child *in utero*, and abort it if it is of the "wrong" gender. The second is to produce a conceptus by *in vitro* fertilisation techniques, and then implant it in the mother if it is of the desired gender. The third is to enrich a sample of sperm either with Y-chromosome spermatozoa (which produce male conceptuses) or with X-chromosome spermatozoa (which produce females), and then use this sample either to artificially inseminate the mother or for *in vitro* fertilisation (the latter being easier at present).

Regarding their practicality, the first of these procedures is as reliable a means of sex selection as anything can be within the limits of human error; likewise the second, although it is sometimes difficult to get the conceptuses to implant properly. The third procedure is presently showing a 70-80% success rate (according to those who are selling it to the public). Whether or not this figure is reliable, no doubt the rate will rise as methods are refined.

Regarding their morality as means, the first of these procedures is likely to be thought objectionable by anyone who does not take a strongly pro-choice position. The second procedure, and the IVF variant of the third, are likely to seem questionable too, since in practice they lead to the destruction of "spare" conceptuses: one does not have to be pro-life to think that there is something distur-

ing about treating human conceptuses as disposable. The third procedure (the AI variant) seems the least likely to be criticised.

What of the morality of the ends which might be served by these procedures? There is at least one obvious medical reason for putting them to work. A number of inherited diseases are characteristically borne by both genders, but manifested only in one gender: for example haemophilia, manifested only by males. So we can prevent a conception from resulting in a possible sufferer from haemophilia by preventing it from resulting in a male conceptus, or by aborting or disposing of a male conceptus which has the haemophilia gene.

It is the non-medical reasons for sex selection which concern this official report, published in the Netherlands in (American) English. Or rather perhaps the *reason*: for there is really only one non-medical reason, and that is that the parents *want* to produce a child of a given sex – or that someone else wants them to. If often happens in Western societies that the parents want to produce a child of one sex because they already have one or more children of the other sex. It often happens elsewhere, for example in China and India, that the parents, or just the mother, come under social, financial or political pressure to produce a child of a given gender (usually a boy). These choices are increasingly available; what are we to say about the ethical issues they raise?

This report takes the line of least resistance. It notes certain worries and "reservations", but it thinks that these can all be answered, and concludes that "the government should respect the reproductive freedom of parents" and that "this principle should only be put aside in order to prevent damage to others".

These rather glibly phrased conclusions at least have the merit of point-

ing out to us the two central issues regarding the practice of sex selection, which are precisely (i) whether that practice is part of parents' "reproductive freedom", and (ii) whether allowing sex selection is damaging to anyone. Let me take the report's treatment of these issues in turn. (They co-ordinate nicely with the two ways in which, as noted, sex selection might be wanted.)

Regarding the first issue, it can be said that it should not be part of anyone's reproductive freedom to make babies by recipe *irrespective* of whether any (tangible) "damage" is a *consequence* of such activities. We may have our doubts about the "instrumentalising" tendency of sex selection in and of itself, and quite apart from anything that might be said about its effects or side-effects elsewhere. I am unable to locate any convincing argument against this point in the report. Although the issue of instrumentalisation is identified, it is very quickly run together with the quite different issue of the consequences of instrumentalisation (page 23):

"The knowledge that your parents have used sex selection is, as such, not enough to generate [the feeling of being conditionally wanted, only as a boy or only as a girl]. If parents justify their actions in terms of the desire 'to establish the unique family relationships that come from having both sons and daughters' . . . it is difficult to see how this could lead to feelings of rejection or inferiority."

These psychological speculations are merely asserted and not argued for. But in any case they miss the point. The child's *feelings* of rejection or inferiority are not the issue (or at least, they are not the first issue identified above, but the second). The first issue is whether or not, in sex selection, something has been done to the child that *justifies* such feelings. It is not

whether he *thinks* that his parents have failed to show proper respect for him as being another human, and not a toy doll or a video puppy. It is whether, as a matter of fact, they *have* failed to show him that respect.

Notice, incidentally, the oddity approvingly quoted within the last quotation – the remark that the “family relationships that come from having both sons and daughters” are “unique”. What am I, as a father only of daughters, to make of this? Are the authors trying to tell me that I am missing something by having no sons? Well, no doubt I am. But so is the father who does not, like me, enjoy the equally “unique” family relationships that come from having only daughters and no sons. So is the father who does not have *my* “unique” daughters missing something, just as I am missing something by not having *his*. Why should anyone go along with the implication that I am missing *more* than these other fathers – in some ill-defined sense of “more”? Even if it is true that I *am* missing something, or even missing “more” than they are – why is it impossible for me to think that in my daughters I have enough to be happy about, *without* looking for “more”?

The first issue regarding the ethics of sex selection, that of respect for humans, thus brings us to think about the reasons that typical members of Western societies or cultures are likely to have for wanting to engage in sex selection. One may form the impression that these reasons show a certain light-mindedness or frivolity – a lack of depth in our thinking about what makes people matter, which is a symptom of consumer capitalism’s tendency to make a marketable commodity out of whatever it can, even gender. This impression of frivolous consumerism is not effectively dispelled by anything that the report says. Indeed the report seems to come down cautiously in favour of it.

It would perhaps be possible to argue that sex selection in itself entails inadequate respect for humans, and that that is why it should not be part of parents’ reproductive freedom. However, the argument, which will not be attempted here, would not be straightforward. After all, *pari passu* it can be said that paying people less than some amount for their labour shows inadequate respect for humans. But not everyone who agrees with that claim believes

that it follows that we should have a legal minimum wage.

However, suppose we turn to the second issue, that of the damaging consequences of sex selection. At this point, it seems to me, a straightforward argument for banning sex selection at least in societies like ours does come into view. And once again the argument is identified, but muffed, by the report (page 22):

“When women in India choose for a boy because ‘they are reluctant to bring a female child into a society in which she will be abused and devalued, as they themselves have been’, this is not a sexist reason [for sex selection]. . . . Even if the parental reasons are prompted [*sic*] by circumstances which can be described as institutional sexism . . . it does not follow that what *they* do is sexist. Parents who opt for a boy because it is better for their child to be a boy in the prevailing situation do so on the basis of their responsibility for the well-being of their child. It is a fact that their choice can help to reinforce sexist structures and relationships but this only means that the situation is one of conflicting responsibilities in which it is inevitable that a moral price be paid.”

As its woolly last sentence suggests, this sequence of thought is a muddled one. First point: why should a committee set up to make recommendations to the *Dutch* Government, on the law regarding sex selection in *Holland*, feel obliged to consider the sociological situation in India? It is, unfortunately, true that there are rampantly sexist societies around, in which producing a female child is a disaster for the mother: but what has that got to do with the Netherlands? The only appealing answer to this question is that some inhabitants of the Netherlands are from those sexist societies and accept their attitudes. But this answer just brings us to the second point – which is that unless one views society as some sort of moral vacuum, one is likely to think that it is a government’s job to prevent blatant abuses of human rights within its own jurisdiction, not shrug its shoulders at them. This remains so even when those abuses are perpetrated by members of the society who, as immigrants and members of ethnic minorities, indisputably deserve a little bit of leeway and understanding. In a decent society we should say that

if *anyone*, whatever their background, is coercing mothers to produce sons, and victimising them and their children if they do not comply, then they should be open to the punishment of law, where punishment is possible. Moreover, we should do what we can in advance, to prevent such abuses. But allowing sex selection is not just not preventing these abuses: it is positively encouraging them. Hence one plausible argument for not allowing sex selection in our society depends on the circumstance that there are large numbers of people in our society who would be likely to use it as an instrument for coercion and for the reinforcement of a whole framework of what our society is unavoidably committed to regarding as unjust social structures and attitudes. And this framework is one within which, incidentally, the report’s attempt to distinguish the parents’ own attitudes and actions from those dictated to them by “the prevailing situation in which they find themselves”, seems to register a failure to understand that a crucial aspect of the problem is precisely that in the cases in question there is no such distinction to be drawn.

This report is an interesting document, and it is clearly and effectively written; but – as so often with government reports – the actual argument is wishy-washy and unconvincing.

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Treatment without consent. Law, Psychiatry and the Treatment of Mentally Disordered People since 1845

P Fennell, London, Routledge, 1996, 356 pages, £50.

Avoiding anachronism and the passing of irrelevant moral judgment remains one of the unresolved problems of medico-legal historiography. According to some, applying current scientific or ethical standards (which in historical work are far more integrated than is usually allowed) to old forms of medical care is, at best, poor historical scholarship, and at worst a